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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130425406-3406-01]

RIN 0648-BD26

Control Date for Qualifying Landings History and to Limit Speculative Entry into the Longfin Squid/Butterfish Fishery; Mackerel, Squid and Butterfish Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking (ANPR); request for comments.

SUMMARY: At the request of the Mid-Atlantic Fishery Management Council, this notice announces a control date that may be applicable, but not limited to, qualifying landings history for continued access to the longfin squid/butterfish moratorium limited access permit program. NMFS intends this notice to promote awareness of possible rulemaking, alert interested parties of potential eligibility criteria for future access, and discourage speculative entry into and/or investment in the longfin squid/butterfish fishery while the Mid-Atlantic Fishery Management Council considers if and how access to the longfin squid/butterfish fishery should be controlled.

DATES: [insert date of publication in the FEDERAL REGISTER], shall be known as the “control date” for the longfin squid/butterfish fishery, and may be used as a reference date for future management measures related to the maintenance of a fishery with characteristics consistent with the Council’s objectives and applicable Federal laws. Written comments must be

received on or before 5 p.m., local time [insert date 30 days after publication in the FEDERAL REGISTER]).

ADDRESSES: You may submit comments on this document, identified by

NOAA-NMFS-2013-0076 by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0076, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to John K. Bullard, Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on Longfin/butterfish Qualification Control Date.”
- Fax :(978) 281–9135; Attn: Aja Szumylo.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. We may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). We accept attachments to electronic comments only in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, 978-675-9195, fax 978-281-9135.

SUPPLEMENTARY INFORMATION: The Mackerel, Squid, and Butterfish (MSB) Fishery Management Plan (FMP) is managed by the Mid-Atlantic Fishery Management Council (Council). Longfin squid (formerly Loligo pealei, now Doryteuthis pealei) supports important commercial fisheries along the Atlantic coast of the United States, primarily from New Jersey to Massachusetts, generating ex-vessel revenues in the \$20-\$30 million range annually in most years since 1989. Since April 2, 1996, the Council has managed longfin squid in combination with butterfish under a moratorium permit to prevent overcapitalization of the fleet (65 FR 14465). The Council has considered additional capacity controls since 2003. On May 20, 2003 (68 FR 27516), NMFS published, at the request of the Council, an ANPR indicating that the Council intended to consider alternatives to further control capacity in the longfin and Illex fisheries (Illex is not a subject of this notice). Accordingly, May 20, 2003, was termed a “control date,” and notice was provided that the control date may be used for establishing eligibility criteria for determining levels of future access to the squids and butterfish fisheries subject to Federal authority. On January 8, 2010 (75 FR 1024), NMFS published, at the request of the Council, a subsequent ANPR reaffirming the May 20, 2003, control date for both longfin and Illex squid fisheries.

In the case of the longfin squid/butterfish fishery, the Council is currently concerned with excess and/or latent capacity. Since 2003, approximately 95-120 of the 375 longfin squid/butterfish moratorium permitted-vessels have accounted for 95 percent of longfin squid landings. Activation of latent capacity, in conjunction with restrictions in other fisheries, may

create a derby fishery in certain quota periods of the longfin squid/butterfish fishery. Therefore, the Council has expressed a need to examine excess capacity and/or latent capacity in the limited entry section of this fishery.

At its April 2013 meeting, the Council requested that NMFS also publish this control date to discourage speculative activation of previously unused effort or capacity in the longfin squid/butterfish fishery while alternative management regimes to control capacity or latent effort are discussed, possibly developed, and implemented. The control date communicates to fishermen that performance or fishing effort after the date of publication may not be treated the same as performance or effort that was expended before the control date. The Council may choose to use different qualification criteria that do not incorporate the new control date. Accordingly, the Council could also choose to develop alternative qualification criteria based on the May 20, 2003, date and/or January 8, 2010, reaffirmation date. The Council may also choose to take no further action to control entry or access to the longfin squid/butterfish fishery.

This notification establishes [insert date of publication in the FEDERAL REGISTER], as the new control date for potential use in determining historical or traditional participation in the longfin squid/butterfish fishery. Consideration of a control date does not commit the Council to develop any particular management regime or criteria for participation in these fisheries. The Council may choose a different control date; or may choose a management program that does not make use of such a date. Any action by the Council will be taken pursuant to the requirements for FMP development established under the Magnuson-Stevens Act.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the longfin squid/butterfish fishery in Federal waters.

Authority: 16 U.S.C. 1801 et seq.

Dated: May 13, 2013.

Alan D. Risenhoover, Director, Office of Sustainable Fisheries,
performing the functions and duties of the Deputy Assistant Administrator
for Regulatory Programs, National Marine Fisheries Service.

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